

Notice of Allowability	Application No.	Applicant(s)	
	09/620,561	KEIFER ET AL.	
	Examiner	Art Unit	
	Robert Landsman	1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment dated 1/27/04.
2. ☒ The allowed claim(s) is/are 22,31,33-35,37,40 and 44 (renumbered as claims 1-8).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 8.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>7/20/00</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lisa Hemmendinger on April 02, 2004.

In the claims:

In claim 22, replace the word "a" between the words "encoding" and "human" with "the"

In claim 22, replace the phrase "as shown in" with "of"

In claim 31, part (b), replace the phrase "means for" with "an"

In claim 31, part (b), replace the phrase "shown in" with "of"

In claim 31, part (b), after the phrase "linked to the nucleic acid" delete the phrase "encoding means"

In claim 33, delete the phrase "encoding means"

In claim 34, replace the phrase "capable of infecting a host cell, wherein the vector comprises" with
"comprising"

In claim 35, part (b), delete the phrase "means for"

In claim 35, part (b), replace the phrase "shown in" with "of"

In claim 35, after the phrase "linked to the nucleic acid" delete the phrase "encoding means"

In claim 37, replace the phrase "isolating a polynucleotide" with "identifying candidate
polynucleotides"

In claim 37, replace the word "a" between the words "encoding" and "human" with "the"

In claim 37, replace the phrase "shown in" with "of"

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In claim 37, replace the phrase "and isolating the candidate" with "candidates"

In claim 40, replace the "A" before the word "host" with "An isolated"

In claim 40, replace the phrase "vector comprising" with "wherein the vector comprises"

In claim 40, part (b), delete the phrase "means for"

In claim 40, part (b), replace the phrase "shown in" with "of"

In claim 40, part (b), after the phrase "linked to the nucleic acid" delete the phrase "encoding means"

In claim 44, part (a), delete "encoding means"

In claim 44, part (a), replace the phrase "shown in" with "of"


In claim 44, part (a), after the phrase "linked to the nucleic acid" delete the phrase "encoding means"

In claim 44, part (b), after the phrase "expression of the nucleic acid" delete the phrase "encoding means"

REASONS FOR ALLOWANCE

Applicants were not required to amend claim 37 to recite any hybridization conditions since, regardless of the conditions, Applicants are claiming only those polynucleotides which encode SEQ ID NO:1.

Applicants are not attempting to claim any polynucleotides which simply hybridize to polynucleotides encoding SEQ ID NO:1. Therefore, hybridization conditions are not deemed necessary. Regardless of the conditions, the genus is small and easily defined.


ROBERT LANDSMAN
PATENT EXAMINER